

**ORDINANCE NO. 1897**  
**MILWAUKIE, OREGON**

**AN ORDINANCE ADDING CHAPTER 3.15 TO THE MILWAUKIE MUNICIPAL CODE RELATING TO THE ACQUISITION AND SALE OF REAL PROPERTY.**

WHEREAS, the City Council wishes to provide procedures and standards for the acquisition and transfer of real property; now, therefore,

THE CITY OF MILWAUKIE ORDAINS AS FOLLOWS:

Section 1: The Milwaukie Municipal Code is amended by adding a new Chapter 3.15 to read as follows:

**REAL PROPERTY**

**3.15.001 Purpose and Application.**

This chapter provides procedures and standards for the acquisition and transfer of real property by the city. This chapter applies to properties owned by the city and does not apply to rights of way and other property dedicated to the public.

**3.15.005 Qualification—Classification.**

Real property owned by the city is classified as follows:

A. Substandard Undeveloped Property: Lots or parcels without structures which are not of minimum buildable size for the zone in which located;

B. Standard Undeveloped Property: Lots or parcels without structures which are of minimum or greater buildable size for the zone in which located;

C. Developed Property: Lots or parcels of any size with structures;

D. Special-case Property: Any real property that, notwithstanding subsections A, B and C of this section, were acquired by the city subject to an agreement for the manner in which they would be disposed.

At the time of a proposed sale of real property by the city, the city manager or designee shall determine the classification of the property.

**3.15.010 Sale of substandard undeveloped property.**

A. Whenever real property is proposed for sale by the city or a purchase inquiry is made and the property is classified as substandard undeveloped property, the proposed sale shall be set on the regular council agenda, but no public hearing is required. Notice shall be given of the agenda item no less 10 days before the council meeting to all property owners within 300 feet of the parcel and to any parties who have

inquired about purchase with the City Manager's designee within one year prior to the date of the council meeting. After discussion of the agenda item, the council shall decide whether it will offer the property for sale. The council may direct the sale of the property only if it determines that the property is surplus to the city's needs.

B. If the council decides to sell the property, it shall direct the city manager or designee to proceed with the sale, publicize as deemed appropriate, determine the existence of interested prospective purchasers and negotiate for the sale of the property.

C. After the details of the sale have been negotiated, the terms and negotiated agreement for the sale of the property shall be submitted to the council for approval at a regularly scheduled council meeting.

### **3.15.015 Disposal of standard undeveloped property and developed property.**

A. Whenever real property is proposed for sale by the city or a purchase inquiry is made and the property is classified as standard undeveloped property or developed property, the proposed sale shall be set for a hearing before the council.

B. Notice of the hearing shall be published once in a newspaper of general circulation in the city at least five days prior to the hearing and shall describe the property proposed for sale. Notice shall also be given to property owners within 300 feet of the subject property.

C. Public testimony shall be solicited at the hearing to determine if a sale of the property or any portion of it is in the public interest.

D. After the hearing, the council shall decide whether it will offer the property for sale and what the minimum acceptable terms shall be. The council may decide to offer the property for sale only if it determines that the property is surplus to the city's needs.

E. Prior to the sale of real property under this section, an appraisal of the property shall be conducted. The appraisal may be ordered prior to or after the hearing. The appraisal may be made available to the public at the hearing if it has been prepared by that time.

F. If an offer to sell is authorized by the council, a notice soliciting sealed bids shall be published at least once in a newspaper of general circulation in the city be made a least two weeks prior to the bid deadline date. The notice shall describe the property to be sold, the minimum acceptable terms of sale, the person designated to receive bids, the last date bids will be received, and the date, time and place that bids will be opened.

G. If one or more bids are received at or above the minimum acceptable terms, the highest bid shall be accepted and the city manager or designee shall complete the sale.

H. If no acceptable bids are received: (1) the council may alter or keep the same minimum terms as established under subsection D of this section and direct staff to hold another sale, or (2) the council may alter or keep the same minimum terms established under subsection D of this section and list the property for six months with a local real

estate broker on a multiple listing basis. Brokers shall be selected in accordance with the criteria found at Section 3.15.030 of this chapter. A listing may be renewed for an additional one six-month period.

I. After expiration of the period set out in subsection H of this section, the property shall be removed from the market. Any decision to sell a piece of property once it has been removed from the market shall require that the entire procedure set forth in this chapter be repeated. The council may, however, decide whether or not an additional appraisal is necessary.

### **3.15.025 Broker selection.**

The selection of a real estate broker shall be in accordance with the following procedures:

(1) The city shall publish notice in a newspaper of general circulation in Milwaukie inviting proposals for the sale of the real property. The notice shall be published at least one week prior to the date on which proposals are due.

(2) The broker's proposal shall be in writing and it shall address the selection criteria set forth in subsection (3) of this section.

(3) The city manager or designee shall consider the following factors in the selection of a broker:

(A) The broker's record in selling the type of real property being offered by the city for sale and the broker's familiarity with Milwaukie-area market values;

(B) The broker's proposed marketing plan and timelines: signs, advertising, direct mail and/or other methods;

(C) The amount of the broker's commission; and

(D) Other factors which were stated in the notice of the invitation to submit a proposal.

### **3.15.030 Acquisition of Real Property**

The city manager may approve the acquisition by the city of an interest in real property if that interest is valued at less than \$25,000 or if the property is valued at more than \$25,000 but is donated to the city. All other acquisitions of an interest in real property shall be approved by the city council. An appraisal shall be required for all property acquired by the city for more than \$ 25,000. Dedications of property for rights-of-way shall not be considered acquisitions of property by the city for purposes of this section.

### **3.15.040 Transfer of an Interest Other Than Fee Title**

The transfer of an interest in real property by the city is not a sale of surplus real property if the city retains title to the property. The city

manager may transfer an easement or other interest in real property less than fee title if the value of the interest transferred is less than \$25,000 and the city manager determines that the transfer is not contrary to the public interest. The transfer of any other interest to real property with a value of \$25,000 or more shall follow the procedure for the sale of substandard undeveloped property as provided in Section 3.15.010.

Section 2: The amendment to the Milwaukie Municipal Code made by Section 1 of this ordinance shall take effect 30 days after adoption.

Read the first time on February 5, 2002, and moved to second reading by 4 - 0 vote of the City Council.

Read the second time and adopted by the Council on February 5, 2002.

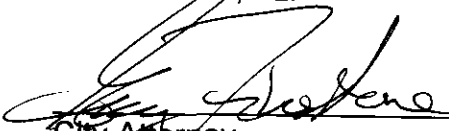
Signed by the Mayor on February 5, 2002.

  
James Bernard, Mayor

ATTEST:

Pat DuVal  
Pat DuVal, City Recorder

APPROVED AS TO FORM:  
RAMIS, CREW, CORRIGAN &  
BACHRACH, LLP

  
City Attorney